

COMMERCE, JUSTICE, SCIENCE, AND RE- LATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008

THURSDAY, MAY 3, 2007

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:03 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Shelby, and Alexander.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

STATEMENT OF NAOMI CHURCHILL EARP, CHAIR

STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. Good morning. The Subcommittee on Commerce, Justice, Science of the Appropriations Committee will come to order. As we said in the beginning of the year, our themes are innovation, security, and accountability.

This morning, this subcommittee will focus on an agency who has one of probably the most important missions within the Government in addition to security, which is the enforcement of our laws against employment discrimination. This hearing will be an oversight hearing as related to what is needed to be sure the agency is able to fulfill its mission.

I would have never dreamed many years ago that I would be able to be here as the appropriator for the Equal Employment Opportunity Commission (EEOC). It would have been a dream well beyond my wildest imagination. Over 40 years ago, I was a young social worker who had heard the call of a gifted President named Jack Kennedy asking not what you can do for your country but what your country can do for you, and responded to that call by fighting the war on poverty and being very active in my own community in the area of civil rights.

Baltimore was a tough town. It had a northern economy but a southern social structure. It was a segregated town and as part of great leadership, the home of where the NAACP is headquartered, the home that gave us Thurgood Marshall, the Mitchell family, like Juanita and of course, Mr. Mitchell, the 101st Senator himself. We did marches and we sang, but we knew that marches and singing didn't always open the doors. They were to get the attention to open the doors.

So when this Government created the Equal Employment Opportunity Commission, we thought it would be a one-stop shop that people within this country could turn to redress any grievance they had if doors were being slammed against them. That's what the job of the EEOC Commission is, to make sure that doors of employment are never ever slammed shut, that by vigorously enforcing the discrimination laws on race, religion, gender, and national origin, we would show that America believed that we are truly all created equal.

But we are very concerned about what's happened over at the Equal Employment Opportunity Commission over the years. It seems not to have been able to fulfill its mission and we are concerned about three issues: management, morale, and money. Is it the lack of resources that are creating the problem? But by any index of objective analysis, it seems that the EEOC really has problems and is in disarray.

We are very concerned about the fact that over years, management has been inconsistent and imperial. Madam Chair, we understand you've been on the job for 6 months, so we're looking for recommendations and results and how that might be tied to resources. If it's not resource-driven but leadership driven, then I want to hear what your vision is because we're very concerned about how we can fix it so that people can have confidence in the process. We believe that we are a Nation of law, that our law guarantees equal opportunity in employment and that we have an agency that you can turn to if you feel that you have discriminated against.

But we're concerned. Last year, EEOC received 76,000 complaints that needed to be investigated on top of a backlog—the 34,000 backlog cases from the year before. Backlogs are an obsession with us because where there is a backlog, there is really a question of being able to enforce the laws. We're concerned that backlogs are on the rise and that the issues are not being addressed.

Despite rising complaints and increased backlogs, EEOC has downsized its agency, contracted out to a customer service call center, which had very few people and seemed to have very little training. So we're going to want to ask about this call center. When you call, do you get an answer? Or are you put on hold and with the backlog, there's another hold you're put on?

What we want to be able to do today is focus on two things: oversight and accountability and how that leads to advocacy. My duty as an appropriator is to make sure that American taxpayer dollars are used responsibly but at the same time, that accomplishes mission and purpose. So we've been concerned and I'll be blunt, Ms. Earp, we know you've had this job 6 months so when you hear our frustration, it's not targeted at you personally, so we want you to know that. We know that front line staff has been cut. We know that work has been privatized without really ensuring quality and oversight.

The district offices were reduced from 23 to 15 but what is the rationale? We know that there has been a reduction in attorneys. Was this about money? Was this about poor management? And it's had a terrible effect on morale. The agency has been reduced by 575. Has this been downsizing and downgrading? Or it is right

sizing? We need to know and we know that there hasn't been a look at the agency in a number of years and that's why we want to start this ball rolling.

As I said, we're advocates here, of civil rights. These men represent the New South. They were generationally parallel. We came out of a lot of turmoil and a lot of tumult but committed in our lives and our public service to do that. Senator Shelby, a champion on these issues. Senator Alexander, a Governor, a Secretary of Education, now fighting also to make sure that education is one of the key tools of an empowerment agenda and the greatest equal opportunity is the right to an equal education and to a good education.

So we're champions here of civil rights and this is why we want this agency, under our stewardship, to be one of the best in our portfolio. So we want to hear from you today on how to do it. You know, we've been through restructuring plans. We don't know what that meant. We saw that positions were reduced, as I said, from 23 to 15. Was that a good idea? It seemed that from what we heard from the civil rights community was that it was not a good idea.

With the call center, we understand that it was contracted out. They only get 7 days of training on civil rights law, that you're not getting the calls that you expected and there seems to be a tremendous lack of communication between the EEOC and the call center.

Then, in my own State, there was the closing of a district office, which was the hallmark of fairness in hearing complaints for Federal employees. There are 117,000 Federal employees in the State, and not because we're a big bureaucracy. We're the home to the National Institutes of Health—13,000 people. We're the home to the Census Bureau—4,000 people. We are the home to so many other Federal agencies—yes, as well as our defense, which has its own track.

So you see, what we want to do is we—we can talk about downsizing and right sizing but what we want to talk about is the right track. We are committed to the mission and goals that were established for the EEOC. So we want to take a look at the management issues, the morale issues and the money issues and we look forward to hearing your recommendations because we are results driven but know, just as there has been a backlog, there is also a backlog of frustration.

But I'm going to be clear. It is not at you personally. Senator Shelby.

STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Senator, Chairman Mikulski, Madam Chairman. We thank you for joining us here today to discuss this. The chairman has already said the Equal Employment Opportunity Commission 2008 budget request.

The EEOC has an important mission as it provides assistance to those who have faced discrimination in the workplace. This is accomplished through investigations, mediation, legal action and by providing education to businesses. The EEOC request for 2008 is \$327.7 million, which is approximately a \$1 million decrease below the 2007 joint resolution funding level.

I know that Chairman Mikulski has serious concerns regarding the EEOC's performance, particularly with the Commission's direction and disregard for congressional oversight. I agree with her and know that you are new to your chairmanship and inherited many of the problems from your predecessor. I believe this has had an immeasurable impact on the EEOC's ability to carry out its mission.

It's come to my attention that the EEOC has decided to cut a large amount of its allocation from the State and local sector. I'm curious as to why this route has been taken because the local offices, I believe, are vital to the mission of EEOC. I have heard of the great accomplishments of the new Mobile office in my State, especially given its large jurisdiction covering the gulf coast regions of Mississippi, Alabama, and the Florida Panhandle. I want to work with you to ensure that the State and local offices get the support that they need to do their job.

Based on my review of your request, combined with the likely fiscal constraints of this subcommittee, we will need your assistance, Madam Chairman, as we face tough funding decisions regarding the allocation of resources in your budget. This subcommittee and the Commission share the difficult task of targeting these limited resources in a manner that safeguards taxpayers' dollars while enabling the mission of EEOC to be carried forward.

Madam Chairman, we look forward to your testimony and we look forward to working with you during the 2008 budget process to ensure that you have, as the chairman, have the necessary resources to carry out the wide and varied missions of the EEOC. I look forward to working with you and Chairman Mikulski and Senator Alexander and others to make sure that you have the requisite funding and we hope and I believe you will go in the right direction. Thank you.

Senator MIKULSKI. Thank you very much. Senator Alexander, did you wish to make a comment?

Senator ALEXANDER. No thank you, Madam Chairman. I have some questions but I'll save them for later.

Senator MIKULSKI. Thank you. Ms. Earp, please proceed.

SUMMARY STATEMENT OF NAOMI EARP

Ms. EARP. Thank you. Good morning, Madam Chair, members of the subcommittee. Thank you for inviting me to testify today on behalf of the Equal Employment Opportunity Commission in support of the President's 2008 budget request for \$327.7 million.

As you've already indicated, I became the 13th Chair of the Equal Employment Opportunity Commission just this last fall. It is a distinct pleasure to appear before you to discuss the needs of EEOC for fiscal year 2008 as represented in the President's budget. I want to thank you, Madam Chair, for your past support and thank the members of the subcommittee for its support and your anticipated future support.

EEOC's vision is for a strong and prosperous Nation secure through fair and inclusive workplaces. We strive to ensure equality of opportunity in the workplace by enforcing the Federal laws prohibiting employment discrimination. We seek to maintain the Commission's reach by continuing proactive measures to prevent dis-

crimination while resolving claims and strategically focusing our enforcement and litigation programs.

I've submitted for the record, a statement that highlights aspects of our budget but I want to spend just a few minutes touching on some of the points that are in the written statement.

First of all, our budget request includes \$160.3 million for administrative charge processing. In fiscal year 2006, the EEOC received almost 76,000 private sector charges. This was a slight increase over 2005. We resolved just over 74,000 private sector resolutions and recovered \$229.8 million in monetary benefits for victims of discrimination. We ended the fiscal year with a charge inventory of almost 40,000 charges. We acknowledge that our charge—

Senator MIKULSKI. Excuse me. Does charge inventory mean backlog?

Ms. EARP. Essentially.

Senator MIKULSKI. Okay.

Ms. EARP. We acknowledge that the inventory is growing. EEOC also has responsibility for hearings and appeals of complaints filed by Federal employees. We received over 14,000 requests for hearings or appeals from Federal sector employees. Our budget request includes \$47.5 million for Federal sector programs.

The litigation program is an important part of overall enforcement. During 2006, our litigation program filed 371 new lawsuits on the merits and resolved 418, resulting in monetary benefits of \$44.3 million. The 2008 budget request includes almost \$3 million in direct support of the litigation program.

That would bring our total litigation budget to just a little under \$57 million.

A strong litigation program provides an incentive for the early resolution of charges during the administrative enforcement process.

Regarding mediation, our budget request includes \$22.3 million. In fiscal year 2006, 8,200 charges were resolved through mediation. The mediation program is highly successful and has been since its inception.

Madam Chair, you've noted a number of issues that you are concerned about but I would like to point out that the mediation program is one of the best, most successful efforts EEOC currently has underway. An independent survey found that 96 percent of employers and 91 percent of charging parties would use our mediation program again if they were offered it.

It's clear the best way to combat employment discrimination is to prevent it from happening in the first place. We continue to meet with advocacy and community groups, employer groups, the legal community, students, educational organizations, unions and members of the general public. We share with them employment trends. We assess needs and we offer advice and assistance. In fiscal year 2006, we conducted 5,634 outreach events, reaching nearly 300,000 people. Approximately 4 percent of the budget is devoted to outreach activities. We're asking \$12.6 million.

Regarding the FEPA, Senator Shelby, that you mentioned, I would note that we are joined in our enforcement efforts, with 96 State and local partners generally called the Fair Employment Practice Agencies (FEPA). The budget request for FEPAs for 2008

is \$28 million and I would just note at this time that EEOC has no involvement and has had no involvement in cutting any amount from the President's budget or otherwise for our State and local partners.

The EEOC, like all agencies today, faces many challenges. We are first and foremost an enforcement agency and we must provide the quality and integrity of enforcement efforts that the public expects and deserves. Approximately 80 percent of our budget has been consistently devoted to relatively fixed expenses, primarily payroll and rent. An additional 9 to 10 percent is dedicated to our partners in the State and local fair employment practice agencies. The fixed costs of EEOC leave us with little discretion in terms of shifting resources to be able to respond to emerging or pressing needs. We constantly look for ways to maximize the return on resources and we look for better ways to align those resources with the mission.

In August 2002, the National Academy of Public Administration (NAPA) conducted a study of our structure and our program delivery. In February 2003, the Academy released its findings. Most significantly, they recommended that we establish a National Contact Center and that we align or realign our field offices and that we restructure our headquarters. We have acted on the first two of these recommendations and we are just beginning work on the third. I look forward to working with the subcommittee, getting the subcommittee's ideas about reorganizing, restructuring our headquarters office.

I want to make just a couple of points about the National Contact Center (NCC). It began operation in March 2005 on a 2-year pilot basis. It's based in Lawrence, Kansas. The pilot has been extended for 1 additional year. While admitting that the National Contact Center got off to a rough start, we had some things to smooth out. The NCC allows 24-hour access to the Equal Employment Opportunity Commission. It saves our investigators and our attorneys from having to answer routine calls. Since it began taking calls, the National Contact Center has received over 1 million contacts from the public. This includes telephone calls, e-mails, faxes.

Our initial focus was on training, monitoring for quality, accuracy and the interpersonal skills of the people who would answer the phone for us. As these have developed, we are now prioritizing actions to increase call volume and to better integrate the National Contact Center with EEOC procedures and practices. Results are reflected in the most recently available report, which shows that in March of this year, the National Contact Center received over 65,000 contacts. At this rate, we project that the contact center will handle 700,000 contacts for us this year alone.

A recent report by NAPA found that EEOC is aggressively addressing issues and the implementation and follow-up is noteworthy regarding the contact center. The NAPA Panel also found that the cost of moving the contact center into EEOC would substantially exceed the current arrangement and that an in-house run EEOC call center would cost about \$8 million the first year and almost \$5 million every year after that.

Regarding repositioning, I would just simply say, again this was a NAPA recommendation that we believe is a good idea as we seek to realign our resources with our organizational structure. While we are concerned about the rising inventory and our ability to timely investigate charges and provide efficient customer service, we are confident that strides are being made, that improvements are underway and that we can manage within the budget the President requests for 2008.

PREPARED STATEMENT

In conclusion, Madam Chair, the EEOC cannot fight discrimination in the 21st century with the same methods that we've used in the past and we thank you for your support.
[The statement follows:]

PREPARED STATEMENT OF NAOMI CHURCHILL EARP

Good morning Madam Chair and Members of the Subcommittee. Thank you for inviting me to testify today on behalf of the Equal Employment Opportunity Commission (EEOC) in support of the President's fiscal year 2008 budget request of \$327.7 million. As you may know I became the thirteenth Chair of the Equal Employment Opportunity Commission in September 2006. It is a distinct pleasure to appear before you to discuss the needs of the EEOC for fiscal year 2008 as represented in the President's request. I want to thank you for your past and anticipated future support of the EEOC.

Our vision is for a strong and prosperous nation secured through fair and inclusive workplaces. We strive to ensure equality of opportunity in the workplace by enforcing the federal laws prohibiting employment discrimination. Our newly implemented strategic plan builds upon what the agency has accomplished to improve its operations. It seeks to maintain the Commission's reach by continuing proactive measures to prevent discrimination; resolving claims of discrimination more proficiently; continuing alternative dispute resolution; developing a more strategic focus in our enforcement, litigation and federal programs; and renewing a strategy to eradicate race and color discrimination while maintaining our internal operations.

EEOC'S FISCAL YEAR 2008 BUDGET REQUEST

EEOC's fiscal year 2008 budget request is for \$327,748,000. Let me highlight some components of our budget, approval of which will be essential to meet the demands inherent to the fulfillment of our mission in the 21st century. I am also submitting for the record a copy of EEOC's Fiscal Year 2006 Performance and Accountability Report. The report provides in greater detail the successes of our performance and activities for the past year.

Staffing and Enforcement Workload.—Our budget request includes \$160.3 million for administrative charge processing. Our employees are passionate about, and dedicated to, their work and produce a substantial body of work. In fiscal year 2006 the EEOC received 75,768 private sector charges, a slight increase over 2005. We had 74,308 private sector resolutions and recovered \$229.8 million in monetary benefits that went directly to the victims of discrimination.

In fiscal year 2006 our average processing time per private sector charge was 193 days, a 12 percent increase over our 171 day average in fiscal year 2005. Our end of year inventory of private sector charges was 39,946, a 19 percent increase over our fiscal year 2005 inventory. We project an inventory of in excess of 54,000 by the end of fiscal year 2007 and in excess of 67,000 by the end fiscal year 2008. We will address this issue of rising average processing times within existing resources, using an FTE level of 2,381, the same as fiscal year 2007 and an increase over our staff level at the end of fiscal year 2006. As we staff up to our budgeted levels, we expect an increase in charge processing (and, by extension, progress in our inventory).

EEOC also has responsibility for hearings and appeals of complaints filed by federal employees. Our hearings data shows that we received 7,802 hearing requests, had 8,685 resolutions, ended the year with an inventory of 4,912 and had an average processing time of 248 days. In the area of federal sector appeals, we received 6,743 appeals, resolved 6,405, and ended the year with an inventory of 3,887. The average processing time was 220 days for fiscal year 2006—a 13 percent increase

from the previous year. Our federal sector appeals data reflects increases in inventory and average processing time and a drop in resolutions.

Litigation.—Our litigation program is an important part of our overall enforcement of the law. During fiscal year 2006, our litigation program filed 371 new lawsuits on the merits and resolved 418, resulting in monetary benefits of \$44.3 million. We seek to maximize the impact of our lawsuits through various means, including obtaining relief for multiple aggrieved individuals and securing broad-based, prospective relief to prevent the recurrence of discrimination. A strong litigation program also provides an incentive for the early resolution of a charge during the agency's administrative enforcement process in the pre-cause determination and mediation process and in the conciliation process. We also believe that publicity of high impact litigation and other cases serves to increase voluntary compliance with the laws we enforce.

The EEOC's fiscal year 2008 budget request includes \$2.9 million in direct support to our litigation program, with a total litigation budget of just under \$57 million. We project a slight decrease in our suit filings for fiscal year 2008, but the demands on our staff and our resources are expected to increase. This is because we expect to devote some of the requested funding to litigating larger and more complex cases involving systemic discrimination developed through the Commission's new Systemic Program. While these cases are resource-intensive to litigate, they have great potential to pay enormous dividends in the long run.

Systemic Program.—Last April, the Commission considered the recommendations of our Systemic Taskforce which was led by Vice Chair Leslie Silverman. The Commission unanimously passed a series of motions calling for the Commission to reinvigorate its Systemic efforts. Systemic cases are defined as "pattern or practice, policy and/or class cases where the alleged discrimination has a broad impact on an industry, profession, company, or geographic location." Since the passage of Title VII of the Civil Rights Act of 1964, as well as with later amendments and authority granted, Congress recognized that employment discrimination cannot be eradicated without a focus on its systemic nature. A strong systemic program is crucial to the elimination of instances of pattern or practice, policy and class discrimination which has a broad impact on an industry, profession, company or geographic location.

Therefore, to complement private sector enforcement of Title VII, the ADEA, the EPA and the ADA, the Commission has embarked upon an enhanced systemic enforcement program. Systemic plans from all District Offices were approved in December 2006. Commissioner charges based on those plans have been submitted and signed by Commissioners. While Systemic cases often take two or three years in order to investigate and develop evidence to decide whether to proceed, I expect some of our cases to be developed and resolved through settlement, conciliation or a litigation filing within a year.

ADR/Mediation.—Our budget request includes \$22.3 million for mediation. In fiscal year 2006 we increased the number of our mediation resolutions to 8,202. Since its inception, EEOC's mediation program has been highly successful in resolving charges of employment discrimination. In addition to the record number of resolutions obtained through the mediation process in fiscal year 2006, a survey conducted by independent researchers to evaluate the program's effectiveness found that 96 percent of employers and 91 percent of charging parties that participated in the mediation process would use the mediation program again if offered. The Commission continues to conduct extensive outreach and publicity efforts to highlight the benefits of EEOC's mediation program and to expand charging party and respondent participation. Additionally, as a result of significant efforts focused on increasing the participation of employers in the mediation program, the agency continues to utilize Universal Agreements to Mediate (UAMs) to secure employer support for the program. These agreements now number over 1,100.

Outreach.—We also employ other strategies by which we address discrimination in the workplace. The best way to combat employment discrimination is to prevent it from happening in the first place. The Commission continues to work closely with its stakeholders to implement new strategies to stop discrimination before it starts. We are striking a vital balance between outreach and education on one hand, and enforcement and litigation on the other. We meet with advocacy and community groups, employer groups, the legal community, students and educational organizations, labor unions and the general public to assess current needs, and employment trends and issues. In recent years, EEOC staff also has increased our number of media presentations, including appearances on radio and television programs in languages other than English, providing information to uncounted thousands of people. The Commission recognizes the importance of outreach, education, and technical assistance to reach out to under-served constituents and to aid in voluntary compliance. In fiscal year 2006, EEOC conducted 5,634 outreach events, reaching nearly

302,000 people. Events included speeches, seminars, workshops, training programs, expanded presence visits, cultural expositions, conferences, and community group meetings. Approximately 4 percent of our budget request, or \$12.6 million is allocated to outreach.

Federal Sector.—The Commission fulfills its mandate to federal employees and applicants for employment through our hearings and appellate enforcement efforts, as well by exercising our oversight authority and providing guidance, outreach and technical assistance. Our budget request includes \$47.5 million for our federal sector programs.

The Federal Sector complaint process is one area by which stakeholders agree that improvements need to be made. We believe that the complaint process takes too long. By statute, federal agencies initially are responsible for investigating charges filed against them. Both Commissioners Stuart Ishimaru and Christine Griffin have been working on recommendations for improvement to the complaint process, and particularly on the agency investigative process. We have made advances in the processes under EEOC's direct control. For example, the inventory of requests for a hearing sharply declined from 5,994 in fiscal year 2005 to 4,912 in fiscal year 2006. Additionally, the average processing time from request to the conclusion of the hearing declined slightly last year. These are welcome developments. Both appeals inventory and average processing time have shown significant decline since 2001–2002, but both showed increases in fiscal year 2006.

In addition, we continue to provide training, outreach, and technical assistance to federal agencies in the implementation of our Management Directive 715 to aid agencies in their efforts to build model EEO programs.

Fair Employment Practices Agencies.—We are joined by our 96 State and Local partners, Fair Employment Practices Agencies (FEPAs), in our vital enforcement role. Our budget request calls for an amount for state and local contracts up to \$28 million. Additionally, we continue to support the 64 Tribal Employment Rights Organizations (TEROs), providing outreach and training to address the specific equal employment issues facing the Native American community. During fiscal year 2006, we successfully transitioned our State and local government FEPA partners to the new Integrated Mission System (IMS), allowing EEOC to retire the old legacy Charge Data System. This migration will provide consistent data management and reporting across EEOC and FEPA offices nationwide. In response to recommendations from the State and Local Re-engineering Workgroup, during fiscal year 2006 we began a comprehensive national training initiative for FEPA staff. This effort will continue into fiscal year 2007.

Information Technology.—Over the past several years, EEOC has completed several major information technology (IT) projects that have streamlined internal processes, reduced paperwork burden, integrated data, advanced our technological infrastructure, and allowed the agency to conduct business more efficiently. The EEOC is taking a fresh look at our Information Technology (IT) architecture and services in an effort to improve operational efficiency, lower recurring costs, increase customer satisfaction, and ensure that IT services are properly aligned with agency priorities and strategic plans. Our overall goal is more efficient usage of the resources that EEOC expends to maintain our IT infrastructure, while realigning our architecture to better support an environment that promotes collaboration, information sharing and analysis, enhanced communications, and streamlined work processes.

During fiscal year 2007, we are integrating our EEO-1 and IMS systems, to provide improved analysis capabilities and data integrity. We have also expanded usage of video conferencing and video-streaming, using this technology to conduct depositions and external hearings, provide remote interpretive services, conduct remote training sessions, and improve collaboration/communication across our multiple office locations. In addition, I have already discussed our systemic program, and several initiatives are underway to ensure that EEOC's technology infrastructure supports a seamless, nationwide, systemic practice.

During fiscal year 2008, we will maintain our critical technology infrastructure but will not undertake new projects or expand current services. Our ability to move forward on other major technology initiatives, such as document management and data warehousing will be largely dependent on future funding. EEOC is currently conducting studies and developing business cases to support requests in these areas.

Initiatives.—It is critical not only that we manage our inventory, but that we spread the word that preventing discrimination benefits everyone. Some of our outreach is conducted through several targeted ongoing initiatives. These initiatives have no separate funding component and are performed by all of our professional staff and included in our overall outreach, education and technical assistance budget.

In support of the President's New Freedom Initiative, we will continue to work with state governments on strategies for removing employment barriers and to promote the employment of people with disabilities. Our Youth@Work Initiative empowers youth to understand their workplace rights and responsibilities and encourages employers to promote fair and inclusive workplaces. Our Small and Mid-size Business Initiative expands outreach and technical assistance to the small business community to encourage voluntary compliance. Our newest initiative—ERACE, Eradicating Racism and Colorism in Employment—addresses the persistence of race and color discrimination in the workplace through outreach, dialogue, and the pursuit of priority and emerging legal issues. In addition, in fiscal year 2005, we inaugurated the agency's first-ever Freedom to Compete Award program to recognize best practices in the private sector, public sector, associations and other organizations. In the federal sector we have begun our LEAD initiative (Leadership in the Employment of Americans with Disabilities) to address the lack of improvement in the federal government's employment of people with targeted disabilities.

NATIONAL CONTACT CENTER AND REPOSITIONING

The EEOC, like all federal agencies today, faces many challenges. We are first and foremost an enforcement agency and we must provide the quality and integrity in our enforcement efforts that the public expects and deserves. As such, we strive to manage our resources to most effectively and efficiently fulfill our enforcement mandate.

Approximately 80 percent of the EEOC's budget has been consistently devoted to relatively fixed expenses, primarily payroll and rent. An additional 9–10 percent has been dedicated to our partners in state and local Fair Employment Practices Agencies. Therefore, our fixed costs of approximately 90 percent of the agency budget leave us with little discretion in terms of shifting additional resources to respond to pressing needs. We continue to look for ways to maximize the return on our resources.

In August 2002 we commissioned the National Academy of Public Administration (NAPA) to conduct a study of our structure and program delivery systems. In February 2003, the Academy released its findings and recommendations. The Academy Panel made a series of recommendations, most significantly recommending that: (1) we establish a National Contact Center (NCC) as a way to improve the quality, timeliness, access, and consistency of services to EEOC's customers and (2) that we realign our field offices flattening the field's management staffing levels, and (3) that we reorganize our headquarters. We have acted on the first two recommendations and have begun work on the third.

National Contact Center.—After the Commission approved the contract to establish the National Contact Center (NCC) in September 2004, it became operational in March 2005 on a two-year pilot basis and was extended by the Commission for one additional year in July 2006. The NCC operates under a contract to Vangent, Inc., from a facility in Lawrence, Kansas. For fiscal year 2008, \$2.5 million is included in our budget for the operation of the NCC. The NCC allows 24 hour access to the EEOC and the ability to speak with a live person 12 hours a day, five days a week. Since it began taking calls on March 21, 2005, the NCC has received more than 960,000 phone calls, nearly 48,000 emails, and more than 2,500 faxes and letters from the public. The NCC's Customer Service Representatives (CSRs) have handled more than 600,000 calls in English, Spanish and through the TTY. In fiscal year 2006, the first full year of operation, the NCC handled over 500,000 contacts, including 284,000 calls answered by CSRs. We expect the contacts handled by the NCC to increase by 100 percent in 2007. The remainder were handled via Interactive Voice Response (IVR), e-mail, fax, or written correspondence. Initial focus was on training, monitoring for quality, accuracy, and interpersonal skills. As these have been developed, we are now prioritizing actions to increase call volume and integrate NCC and EEOC procedures and practices.

In 2006 the NCC was reviewed by EEOC's Inspector General. The IG's report made a number of recommendations that needed to be implemented if the NCC was to be a more effective and integrated component of the EEOC. Many steps have been taken to implement those recommendations. Among the recommendations was the need to increase the call volume to meet prior projections. Actions have been taken to increase call volume since the beginning of fiscal year 2007. The result is reflected in the most recently available monthly report which shows that in March 2007 the NCC received approximately 65,174 contacts, including calls and emails, which projects to almost 800,000 contacts per years. A recent (January 2007) report by the National Academy for Public Administration found that EEOC has begun to aggressively address shortcomings in the NCC's implementation and follow-up and

that progress has been noteworthy. The NAPA panel also found that the cost of moving the call center into EEOC would substantially exceed the current arrangement, and that an in-house EEOC-run NCC—staffed with EEOC employees—would cost \$8 million for the first year and \$5.7 million annually thereafter. Given the cost to bring the NCC in-house and the fact that many improvement-plan initiatives still are being implemented, the Panel recommended that EEOC maintain the current arrangement until and unless a more detailed, comprehensive cost analysis is conducted.

Through the Center we have compiled data on the race, national origin, gender, and age range of callers and can separate the reasons people call into various topics. Among our findings, we now know that less than 40 percent of the callers are calling about potential charges. As of this month, we will be able to run reports on the bases and issues that people call about and show trends by region, race, national origin, gender, and age. This information will help us to know how to more strategically focus our resources. The NCC is a good investment—it allows the public greater access to our agency, permits us to analyze trends and other data, and frees up EEOC employees to focus on investigation, mediation and litigation. Overall, I believe both the IG and NAPA assessments have resulted in an improved system that will better serve the Commission. The extension of the NCC will be the subject of a Commission vote later this year.

Repositioning.—The Commission also realigned its field organization effective January 2006. This reduced the number of our districts, reclassified the status of some offices, and allowed us to balance the workload within our districts. This was done without closing any offices or reducing staff.

With the implementation of the field repositioning plan and the consolidation of 24 district offices into 15 districts, the agency has realized the benefits from being able to redirect more staff to the front line duties of enforcement and mediation. In preparing the repositioning plan, we looked at the resources EEOC was spending on its management and administrative positions. The previous EEOC structure was put in place in 1979 when the Commission had approximately 3,800 employees; whereas in 2005 we had approximately 2,400 employees. We did not believe it was prudent to retain a management and administrative structure that was designed for a much larger workforce and was designed when we did not have the advantages of modern technology for our business uses. In fact, in 2006 we opened two new offices in Las Vegas and Mobile to provide access to the EEOC in growing and underserved areas. Beginning in 2003 we initiated a five-year program to more appropriately size our field office space as leases expire, with a goal of reducing rent costs by 35 percent. The lease on our headquarters building expires in 2008 and we are working with our landlord, the General Services Administration, to find a location that will meet our current space requirements.

We are now working on the third of NAPA's major recommendations, the evaluation and reorganization of our headquarters structure.

CONCLUSION

We will continue to review our operations and infrastructure to obtain savings wherever we can so that we are best able to place our resources where they are most needed. We have been diligent in our efforts to do so and to build a sound financial model. We believe that the efficiencies that we have in place will in the long term reap benefits; however, we cannot and will not lose sight of our current posture and the need to continuously align our resources with our mission.

It is essential that we be fully funded at the President's request, so that we can maintain staff and deal with the inventory issue to the best of our capability. While we are concerned about our rising inventory and its impact on our ability to timely investigate charges and provide efficient customer service, we are confident that we can reduce the inventory and our charge processing time by more efficiently utilizing our existing resources.

Madam Chair, the EEOC cannot fight discrimination in the 21st century with the same methods that have been used in the past. Great strides have been made in the past four decades, but there is no rest for the EEOC. Approval of our 2008 budget is essential to permit the EEOC to continue with its vital mission of ensuring that equality exists in the American workplace. The citizens of our Nation deserve no less. We must continuously work to effectively allocate our resources so as to meet our statutory mandates. Madam Chair, we appreciate your support and that of the Subcommittee. Thank you for inviting me to appear before you today and I will be happy to answer any questions you might have.

Senator MIKULSKI. Thank you very much for this testimony. We are going to vote. The vote will start in about 15 minutes, although it's never as calibrated as we all think. And I understand my colleague, Senator Shelby, might not return, to be able to return. Senator, what I'm going to suggest as a way of proceeding that we turn to you and then——

Senator SHELBY. I'll be quick.

Senator MIKULSKI. We want you to do what you need to do here and then we'll return and when the vote occurs, we'll recess, dash over and come right back.

OFFICE CLOSURES

Senator SHELBY. Okay. Thank you, Madam Chairman. I'll just get right to some of the issues that I raised. In my opening statement, I mentioned that I was concerned about the cut in State and local funding. You alluded to that. Your budget request reduces funding to the State and local offices—it's my understanding—by \$2 million from the 2007 budget. Will this cut cause any offices to be shut down? I mentioned the Mobile office, which covers south Alabama, part of Mississippi and the Florida Panhandle. We think that's an important office, not because it's located in my State. It could be located in Maryland or somewhere else but local offices do augment what you're doing.

Ms. EARP. No, sir. We do not anticipate closing any local offices.

Senator SHELBY. Okay. Well, that's good.

Senator MIKULSKI. Mr. Chairman, what do you mean by local office? Are you talking about a Federal office? What do you mean?

Ms. EARP. Well, definitely we don't plan to close any State or local offices under the fair employment practices agencies but we have no plans, have never considered closing any of the Federal offices either.

Senator SHELBY. That's good to know because I don't—if you start closing offices anywhere, I don't believe you can carry out the mandate that I know you want to do and have the EEOC to do as part of your charter and your responsibilities. That was my—that's one of my concerns, funding reductions.

At the time of the release of your 2008 budget request, there were only 2,246. That's a decrease of 978 people, which seems like a number over a short period of time, especially since the backlog of charges has increased, that you mentioned. How are these staffing reductions spread across the agency, including field offices? Have you worked that out yet and if you haven't, will you let us know what you're doing?

Ms. EARP. Well, we constantly balance the workload against the number of people available to do the work but I would be happy to submit to you a more detailed——

Senator SHELBY. To the subcommittee, to all of us.

Ms. EARP. To the subcommittee.

Senator SHELBY. Sure. If you would do this, that would be very helpful from my standpoint. It's my understanding that there are 2,381 is the actual number of current employees or is this a ceiling for the maximum number you plan to employ? Do you want to answer that for the record?

Ms. EARP. Yes, we plan to hire to our ceiling.

Senator SHELBY. You plan to continue to, under your leadership, for the EEOC to meet its responsibilities, do its job?

Ms. EARP. Yes, sir, absolutely.

Senator SHELBY. Okay. Well, we have a lot of confidence in you. We know you are new on the job but you bring a lot of experience to this job and that's what we're interested in, is fairness in the workplace, fairness everywhere.

Ms. EARP. Thank you.

Senator SHELBY. Thank you, Madam Chairman.

Senator MIKULSKI. You were quick. Senator Alexander, will you be able to come back or would you like to proceed now as a senatorial courtesy?

Okay. Then let me start the questioning and then we'll come back with Senator Alexander and if there is a follow up round. We want to acknowledge first of all, that the EEOC has been flat funded for 5 years. Five years, with an expanding population, expanding stress in terms of a variety of forms of discrimination and this flat funding has had to take its toll, which is one of the reasons we want to have this oversight hearing.

Remember: management, morale, money. Let me get in—in the Congress when we passed the continuing resolution, we were able to come up with modest increases, particularly in the area as Senator Shelby has said, we increased it in State and local and also the private sector enforcement.

REPOSITIONING PLAN

But let me get then to the punch line. Over the last 6 years, there has been a reduction in full-time employees of 543 staff. Was that—I'm going to talk about what caused the reduction and what are the consequences of the reduction, meaning the impact. Was the reduction due to the so-called right sizing, you know, all that nice private sector vocabulary or was it really budget driven when one looks then at the backlog and some of the other issues?

Ms. EARP. I believe that the reduction is multifaceted. We stand in the current position today because like many Federal agencies, we have had a number of employees for some time who were retirement eligible. That's a factor. We also had early outs and voluntary retirements in the last couple of years and we've had some natural attrition.

I think if you take all of those together, compared to the rising workload, it just makes sense. Over time, we have become a smaller agency like many.

Senator MIKULSKI. But here's what I find difficult to understand. You have a rising workload, a changing population, even geographically, which I know you'll want to discuss with the field offices, which would seem to me with the backlog coming now of 40,000, don't you need more people?

Ms. EARP. Well, we believe that we can manage for 2008 within the President's budget. But I would submit, Madam Chairman, that the current situation, which some view as a crisis, started a number of years ago in the mid-nineties. In 2002, EEOC—

Senator MIKULSKI. We're not—we understand that. But we're right here now, to get it right. So we know that the backlog has been growing over a number of years. This is not finger pointing

at an administration. This is trying to pinpoint where we are. We now have a backlog that we expect of 54,000 cases, a 60-percent increase in 3 years. So let me then get to this. What does it take? What are your ideas for dealing with the backlog? How will we systematically be able to deal with the backlog and what do you need to be able to deal with this backlog?

Ms. EARP. Well, we are doing a number of things to gain efficiencies and attempt to manage the workload. We continue to reassign staff. One important decision that was made recently is to manage the agency as if it were a national model. In the past, we've been stovepipes—each district responsible for its resources and the management of its cases.

For example, with legal, we will function like a national law firm so that work in one area, we move the people to the work. That particular district no longer has to be held hostage to the limited resources that it has there.

Senator MIKULSKI. Yes, but what are the top three things that you need? So one is this national model and I'm not sure what that means. But what are the top three things to deal with the backlog? What do you anticipate the backlog reduction will be for this coming year? We know backlogs can't just evaporate but we know—so can you tell us the top three things—what are your benchmarks and goals? How will you measure improvements in the reduction of backlogs? What would be the matrix that you would use?

So what is your plan? What are your top three? What are your benchmarks for evaluation and what will be the matrix that you will use to evaluate that these suggestions or management models are effective?

Ms. EARP. Madam Chair, because we are finalizing our strategic plan, I would really like to provide you with our top three benchmarks, and especially our measures at a later time, if you would allow me to do that.

Senator MIKULSKI. Certainly. We would like the benchmarks and we'd like the matrix so then we're all—we all are clear then on what are the criteria by which we can evaluate progress and we can evaluate—and we can do our stewardship. But what are the top three things that you are going to do to eliminate the backlog?

So one is the national model idea.

Ms. EARP. One is to function on a national model. Number two is to have enough savings to be flexible and we are getting our savings from managing our rent, managing our attrition rates, preparing to relocate the headquarters office, as well as right size field offices and to use money saved there. To better train our staff is the third.

Senator MIKULSKI. So what you're really doing with your three ways of reducing backlog is trying to find money elsewhere and to come up with savings. Is that right?

Ms. EARP. We're trying—

Senator MIKULSKI. Do you need more people? Or are you—the Office of Management and Budget (OMB)—listen, we're not trying to embarrass you, please. Are you OMB embargoed and can't tell me that?

Ms. EARP. Yes, ma'am.

Senator MIKULSKI. Okay. Well, I think that answers the question. If I could come back to the 543, were they in particular areas, like law? Were they back office support? Were they paralegals? Are there ways that technology can help you do things apart from this call center? We'll come back to that. Where did you lose most of your people?

Ms. EARP. Most staff were lost with investigators and administrative support staff. Paralegals, clericals, the people who are a part of a very people-driven process on the customer service end. We've had less loss, I think, with attorneys but a lot on the enforcement staff with investigators.

Senator MIKULSKI. So really, the front line staff, which is where the calls come in and then the people who actually initiate, particularly that initial claim and that's where, because you've lost investigators, the backlog in the initial claims is the one that's growing. Am I correct in that?

Ms. EARP. Yes.

Senator MIKULSKI. And then, of course, investigators need what we'll call the back office support, is that correct?

Ms. EARP. Yes.

Senator MIKULSKI. Can you tell me about how many investigators you lost and what would that be in terms of a budget item?

Ms. EARP. I can't provide budget information but over a period of time, we've lost about 500 employees, the majority of those being on the enforcement side of the house versus the legal side.

Senator MIKULSKI. Right. And enforcement is a word to mean the investigation of the complaints, which then determine the nature—when the validity of the complaint and the nature of the complaint, which meant some could go into mediation and some would have to follow our legal procedures, is that right?

Ms. EARP. That's correct.

Senator MIKULSKI. But this is the gateway and then would you say that this is also now the choke point in terms of creating the backlog?

Ms. EARP. Yes. The inventory and receipts come in on the enforcement side of the house so the inventory grows on the enforcement side of the house.

Senator MIKULSKI. Okay. My time has expired. I want to turn to Senator Alexander and Senator, why don't you proceed?

SALVATION ARMY LITIGATION

Senator ALEXANDER. Thank you, Madam Chairman. I have a question on a little different subject. Thank you for coming and I say, as I reflect on the discussion you've just had with the chairman about the need to allocate to resources and the 56,000 case backlog. Are you aware of the lawsuit that the EEOC has filed against the Salvation Army, alleging that they fired two employees for not being able to speak English, according to the Salvation Army's policy that its employees should speak English in the workplace?

Ms. EARP. Yes, sir.

Senator ALEXANDER. I want to ask you about that a little bit. As I understand the facts, the Salvation Army has a policy that says employees are expected to speak English and that it gave two em-

employees who did not, 1 year to learn English and then when they didn't, it fired them. Am I to understand that any business in the United States cannot have a policy that requires its employees to speak our national language?

Ms. EARP. No, sir. The—and I don't want to say too much about the Salvation Army case because it is ongoing. But the question, when an employer has an English only standard, as is alleged in this particular case, the issue for us is whether or not there is a business necessity for that requirement. If the charging party, the victim, the plaintiff, is engaged in work that doesn't require customer contact that is not a matter of health or safety, that there appears to be no legitimate reason to require English only, then it becomes unlawful or at least—

Senator ALEXANDER. Well, whose job is it to prove that? It would be the employer's responsibility, right?

Ms. EARP. Well, the employer has a responsibility to articulate for us a business necessity.

Senator ALEXANDER. Right. So every employer in the country has got to come before the EEOC and prove that there is a reason for speaking English only. Do you conduct your staff meetings in more than one language?

Ms. EARP. No, sir.

Senator ALEXANDER. What's the reason for that?

Ms. EARP. I only speak one.

Senator ALEXANDER. Well, what about your employees? Do you hire employees who only speak English in your staff, for example?

Ms. EARP. No, we have staff that are bilingual.

Senator ALEXANDER. Well, no—only English. I mean, if Senator Shelby were to say, I only hire employees who can speak English because we have maybe 100 languages spoken in Alabama and I want to make sure that the common language is spoken here. Would he have to justify that to the EEOC that he has a business reason to do that?

Ms. EARP. No. I think the circumstances under which we would be interested or get involved are very specific and on a case-by-case basis. An employer who establishes an English only rule has a responsibility to show a business necessity for that rule.

Senator ALEXANDER. Madam Chairman, I only have 2 minutes left. I find that an astonishing waste of your time and contrary to every effort we're making in the United States today to try to have one country. I mean, I've spent the last 40 years voting for civil rights acts, but the reason was so that we could have a single country and there are only a few things that unite us.

One is our common language, English. One is a few principles that we learned in the Declaration of Independence—I mean, I hardly know where to start with this. The Senate, last year, in debating the immigration legislation, declared English our national language, which you're now suing the Salvation Army to say they can't require employees to speak, even though they clearly posted it and employees don't have to work for the Salvation Army—the Senate said, we're going to give 500 grants to help prospective citizens learn English.

The Senate said that people have to learn English before gaining legal status here. Since 1906, people have had to learn English to

become citizens of the United States. It's not a punitive requirement. It's a requirement to help us make a common language.

We have 28 languages spoken at the school my daughter went to. And it seems to me, completely contrary to everything I know about the importance of achieving unity in our country for us to, in effect, by your lawsuit, require every single employer in America to prove business necessity to the EEOC in order to require English in the workplace. Some may have to worry that if they post that in order to work here, you have to speak our common language, English, that they may be sued by you if they don't.

Carlos Ghosn is the head of Nissan. He went to Japan to take charge of that company. He requires them all to speak English in their meetings because they need a common language. I don't know how you can conduct a staff meeting at the Salvation Army Thrift Store if people speak 15 different languages. A 9-1-1 telephone call wouldn't be useful to a Chinese person if the person who answered the phone spoke Spanish.

So I would like to respectfully ask that if you have a backlog of 56,000 cases, that you put your resources on something other than harassing the Salvation Army Thrift Store, which is a nonprofit, charitable organization that relies on contributions for having to hire lawyers to defend for requiring their employees to speak our common language. I can't imagine why the EEOC would do that. And if necessary, I'll introduce legislation to permit employers in the United States to require their employees to speak our common language in the workplace. I never had imagined that might be necessary but if you persist in this, then I intend to do that.

Senator SHELBY. I just want to ask the chairperson, what is the origin of this lawsuit, assuming that what he is asking is factual and I believe, to me, that's—you know, we're promoting English as the language that unifies us. It binds us together. I think if you're doing this, you're going down a path that Congress is going to hit you hard on and I believe if you're doing this, I don't know what the legal basis of that is. I've never heard of such.

Ms. EARP. EEOC has had a longstanding policy that essentially says when an employer takes an action that could be construed as an action based on that person's ethnicity, their race or their gender, that the employer has a responsibility to articulate a reasonable, legitimate business necessity. In other words, an employer can't say to someone, you can't speak your foreign language, your native language on the job unless there is a business reason. If it were for health, a nurse, if it were for public safety, a police officer, then it is required. But if the person is cleaning your floor or if the person is pressing your clothes or in this case, merely folding clothes but not having—allegedly not having any contact with the public. There appears to be no business reason to deny that person the right to speak their native language.

Senator SHELBY. Are we talking about working or speaking? You know, why—I personally wouldn't hire anybody in my office here or anything else, any other business if they couldn't speak English because English is the business language of this country. They couldn't help me. They couldn't help. I think you're missing the point.

Senator MIKULSKI. Before the Chair responds, I'm going to, upon the completion of this line of questioning, the subcommittee will stand in recess and the first of the three to get back that wants to continue questioning can pick up on it. I'm going to excuse myself now. Did you want to?

Senator ALEXANDER [presiding]. Madam Chairman, that will be all my questions. I would just ask the Chairman in light of her 56,000 case backlog and the commitment of this country to English as our national language, to think very carefully about whether this not only is a wise use of resources, but to consider that we've required every new citizen in this country to learn English since 1906. That's not discrimination. That's a form of national unity and we seek ways to encourage people not to learn English, not to learn it at the beginning of the previous century.

Organizations all over America required the learning of English so that we could be one country, so we could talk with one another and that was one way we became Americans. Our oath of citizenship actually renounces where we've come from and says we've become an American and 650,000 people take it this year and they don't get to be Americans unless they speak English.

I introduced legislation last year the Senate passed to say you can become a citizen a year earlier if you become proficient in English to try to send a signal of the importance of our common language. So it seems to me that if a company posts this and believes it is important to speak the common language, to have an integrated team, that it shouldn't be required to hire lawyers and justify to the EEOC why that company requires its employees to speak our common language in the workplace. So I hope you'll think carefully about this and about the relative value of it in terms of all the other things that you have to do.

Ms. EARP. Senator, may I seek a private meeting with you at some point and perhaps your staff, to share the policies and to further discuss what your concerns are?

Senator ALEXANDER. I'd be happy to do that, Madam Chair and now if you'll excuse me, I'm going to join my colleagues and go vote.

Ms. EARP. Thank you.

Senator MIKULSKI [presiding]. The Subcommittee on Commerce, Justice, Science is officially reconvened and continues its oversight hearing on the Equal Employment Opportunity Commission.

REPOSITIONING PLAN

Madam Chair, I want to go into questions about the field offices and the results of the National Academy for Public Administration (NAPA) study. Ordinarily, I'm a big fan of NAPA studies. When I was both the Chair and the ranking member of VA/HUD, we used—Senator Bond and I used NAPA a lot. In fact, it helped start one of the initial reforms of the Federal Emergency Management Agency (FEMA) under President Bush One. But I'm not so sure about this NAPA set of recommendations and the field studies and the track it put us on and now where we are with that.

As I understand it, this resulted in—the number of district offices was reduced from 23 to 15. Is that correct?

Ms. EARP. Yes.

Senator MIKULSKI. And are there plans for further reductions now?

Ms. EARP. No.

Senator MIKULSKI. So you feel this is it?

Ms. EARP. The field repositioning has been effective since January 2006. For now, things seem to be working well. There are no plans to further realign the field although we are looking at restructuring headquarters.

Senator MIKULSKI. Well, we'll come back to headquarters because there is a lot in the—provided in the news about the headquarters.

Let me go to where I'm concerned about the field offices and then I'm going to talk about the Maryland field office, which put us in a very prickly relationship. Now, when the Equal Employment Opportunity Commission embarked upon the implementation of the reduction of the number of district offices, the authorizing committee that Senator Kennedy chaired and I was a member, voiced very strong opposition to that with your predecessor. So again, this is something again that you've inherited and we had very serious concerns about which offices were going to be downsized, not only numerically but in terms of stature and in terms of the focus of what their work would be and you're familiar with the district office, the local office has very different functions.

We were ignored and our problem is this—here's our national problem. Our national problem is number one, population centers are changing. So as you know, the growing populations, particularly in our border States. If our western Senators were here, Texas, New Mexico, of course California—with that is bringing other kinds of challenges on discrimination.

Also we have places in our country where there are centers of large Muslim populations. They feel that because of dynamics in the larger society, they are facing discrimination from the kind of clothes they could wear in the workplace to overtly being shut out of possible jobs.

So my question to you is the framework that we now have for district offices demographically outdated? And if you don't know the answer to that, that's okay because I'm going to get to another part of that. But do you see? This study was done in 2002. We're in a very different world order now, in many different ways.

I'm concerned that your location of your field offices—we're not talking about closing any but really helping you meet—we have a saying. I'm a professionally trained social worker. I know you come from a background of Federal agencies—to meet people where they are, not where you want them to be. You have to meet people where they are, not where you've got your field office.

So my question is, that in the analysis of where your cases are coming from, where your analysis is with the new demography of our country, is in fact the need for more field offices, more strategically located on the basis of the complaints that are coming. In other words, where the dynamics seem to be and also where the population centers are that seem to be experiencing significant barriers in terms of employment and employment discrimination. Do you see where I'm heading?

Ms. EARP. I do and I have two responses. One response is, we think for the short term that the decision to open the southern of-

office in Mobile and the western office in Las Vegas, we're right on—that they were consistent with the demographic trends.

My longer answer is, one of the positive things about the National Contact Center is it allows us to capture the data from where the calls come in, not just the issue raised but what part of the country right down to the zip code, that call came in from. So in the long term, I think that we will be better able to refine where offices are located.

The only other point that I would make, Madam Chair, is we have historically tried to put the offices in a transportation center because often charging parties don't own cars. Sometimes they are not the highest socioeconomic rungs so it has been important to at least have those offices where public transportation is accessible.

Senator MIKULSKI. Well, first of all, I think that's a very important goal and we'll come back to again, to the Maryland situation. But to be sure I understand the answer to your question, you want to use the data from the call center as a way of analyzing trends, both in the nature and the type of complaint that you're getting, because it's supposed to be gateway and number two, you want to look at it in terms of where is the volume coming from, to then assess whether you need more field offices. Is that correct?

Ms. EARP. Well, we have the capability of looking at that data over time to see exactly what the issues are and where the issues are coming from. I don't think that we have given, at this particular point, any study or thought to opening additional field offices. Obviously that requires a lot of thought, a lot of deliberation, a lot of consultation with—

Senator MIKULSKI. But I'm thinking about it. And I believe that members of the subcommittee are thinking about it because one of the hallmarks of our country is the fact that if you feel you are discriminated against, you have legitimate channels for redressing grievances. There are countries that are facing challenges, European Union (EU) countries with immigrant populations where they feel that they are frozen in place and they become targets of recruitment for radical organizations.

We, on a bipartisan basis, believe in the opportunity ladder, which I believe you do believe in and you yourself, as I, have lived and benefited from this ladder. At the same time there must be a place to redress your grievances. In this country a person should not feel that you are frozen in place because of what your last name looks like or the clothes you wear or the accent that you might bring into the marketplace and if you feel that, if you feel you have a legitimate place—you have a place to take a legitimate grievance and that grievance will be met in a fair, open, consistent way, it's our way. It's the American way. And because it is an American way, that's why we've been able to, every generation, right or wrong, in every generation, welcome these new people.

So you see why we feel—it's not about field offices and it's not about my district or that district. It's about America and it's about having the opportunity to redress grievances.

FUNDING

I was looking at—first of all, I'm very disturbed that the EEOC has been flat funded for 5 years. We also know it's been under-

funded for a number of years so we're not pointing to an administration though this one has kept it flat funded while other benefits went in other areas.

So we're looking at that. I was going to suggest a study but before we get into that, what we will then ask for you and your team to think about it. Because if the call center is going to be your tool, then the call center has got to work right and I don't have a lot of confidence right this minute in the call center. So let's put this on hold because I'm going to come back to the field offices.

But you see where we are heading. It is to mission and to purpose. It's not about bureaucracy and these questions are meant so that we can have—we want America to be America. That's what we want. We want the Constitution and its laws to be able to be enforced and we want the people who are asked to do that to be in the right place with the right number of people, with the right tools to do this. That's where we're heading with this.

DOWNSIZING BALTIMORE OFFICE

Now, let me go to the field offices. My favorite topic of course, is Baltimore. We got into a very prickly relationship with your predecessor and we got into a prickly one for several reasons. One, we felt we were not listened to and I'll give the reasons why we raised our challenges to the downsizing or down grading of the Baltimore office.

Second, we felt that one, there was a promise made to take a look at it, which was never fulfilled. And number three, we felt that it was overall symbolic of what was felt by many employees, an imperial management style. So you need to know, that's where all the prickly comes from. Okay?

Now, let's start with not being heard. One of the reasons we were concerned about the Baltimore District Office is not because it's Baltimore and Senator Mikulski's going to fight for one more thing and don't close this and don't downgrade that. Part of that would be true. You know me. You're my constituent. So you know where we would be.

But I will go to the Baltimore office and what its job is. As you know, Maryland is the home to Federal employees. You yourself worked at, I believe, at NIH.

Ms. EARP. Yes.

Senator MIKULSKI. As well as other Federal agencies and I believe you developed certain diversity initiatives, which were much needed at the agency. As you know, it's had its own challenges with equal opportunity and you see, that's my whole point that within the National Capital region, not only Baltimore but also Northern Virginia.

We are home to probably the largest number of Federal employees than anywhere in the United States of America. Because of that and in the Baltimore area, we're the home to significant ones, like the Social Security Administration (SSA). There are over 15,000 people who work there because it functions 24/7. You just don't do Social Security—it's not only the people who take the claims—all of that processing, which means the right check to the right person right on time, goes 24/7.

That Social Security office in and of itself has an incredible history. When Lyndon Johnson was President and he said that the Federal Government would be the model employer, many African-Americans for the first time, felt that if you were talented, you could go to work for the Federal Government. So people like Kurt Schmoke's dad, with a background in chemical engineering, could go to work at Aberdeen. Men and women who had experience in law or business could come to Social Security.

If you came to me with the Woodlawn community and saw the people who work there and people who retired. They worked hard. They did the right check at the right amount to the right person at the right time but they also, because they had opportunity at Social Security, could move on up, raise a family, send their kids to school and make a life. I only use that as an example.

What we know in the Baltimore area is that because of the number of Federal employees that they needed a place to go. So just even in that larger metropolitan area, then also we are in tremendous economic change with populations. Twenty-five percent of our population in the State is African-American, still facing redlining and sidelining.

As you know, sometimes it is sidelining, not the overt discrimination and you are an expert in the field. So we were concerned that because they eliminated the regional attorneys, they eliminated 20 jobs and then they downsized, telling essentially the Baltimore metropolitan area, go to Washington.

But going to Washington along with the Washington metropolitan demands on EEOC, which again, looking back from your National Institutes of Health (NIH) hat, you know the stresses and strains and now you see it from a management capacity. If Webb and Warner were here, they would be talking about the Northern Virginia area. So you see why we didn't want Baltimore downsized? But we weren't heard. We were not heard. Then we were told, oh, I will take a look at it and then we were told that it would be kept a district office. That word was broken with me. Okay? And it was actually broken with Senator Kennedy, who also was aware of this.

So it seemed like the team was clueless about being involved with Congress. Now, we can get involved in a lot of tying you up into knots and into all that. I don't want to do that. I believe it is new leadership and it's time for a new start. And I think that's what you want. Am I right?

Ms. EARP. Absolutely.

Senator MIKULSKI. Do you want to respond to what I've said so far?

Ms. EARP. Yes. Let me start—

Senator MIKULSKI. I went through this narrative because I felt—one, because again, we have national responsibility but I want to use my situation as a cameo because other colleagues have some of the same questions.

Ms. EARP. Well, first of all, Madam Chair, let me say, I hear you. I hear you loud and clear and I thank you for giving me an opportunity to demonstrate my leadership and my commitment. I start by saying, I respect the role of the legislative branch, and obviously my Appropriations Committee, the subcommittee, I respect tremendously.

I intend to operate in a spirit of transparency and one of comity and respect for your role and to seek the subcommittee's advice and guidance on changes, proposals, activities at the Equal Employment Opportunity Commission and I would also say, I am a political appointee today but I have 20 years prior to today, of being a career civil servant. I don't think anyone who has ever worked with me would describe me as being imperial. My style is open—

No, no, no—I absolutely agree. I say that only as an example of what the changed environment is at the Commission today.

Senator MIKULSKI. I want to talk about a way forward. First of all, I'd like to talk about the National Capital region and the tremendous changes that are coming to the region and then the fact that I would like an evaluation of the field offices and so on, in the National Capital region.

The National Capital region, to me, is Northern Virginia, really up to around Aberdeen Proving Grounds. Okay? And what is happening is that base realignment and closure (BRAC) is coming. The base realignment and with that means more jobs. There are more jobs that are coming to Fort Belvoir than have ever come before.

If we look at Aberdeen, Fort Meade, Naval Bethesda, these are all—Walter Reed is consolidating but also more coming to Aberdeen and to Fort Meade. We estimate that anywhere from 10,000 to 30,000 new jobs are going to be created by base realignment that either will be direct civil servants jobs or private sector jobs and particularly in the area of security. Along with that will come support services in law, real estate, et cetera. So the good news is, our economy will continue to boom.

At the same time, there will be new populations coming and some directly related to Federal employment. What I would like is to evaluate what it is that the EEOC needs to do to be ready because this was a 2002 NAPA study, which is no longer relevant to what the population is or won't be or whatever, particularly for those who have responsibility to Federal employees or private contractors funded by the Federal Government.

Because if we're not the—you know this—if we're not the model employer, how do we go to the private sector? If we are not the best, then how can we ask them to do this? So, this is why I would like to both—we don't want to micromanage the nature of the study. We want to work with you in a very collegial way to take a look now at the National Capital region and what is here, both in public and private areas and how we need to reassess in a post-2002 world. Do you follow me?

Ms. EARP. Yes.

Senator MIKULSKI. So we can get at what do we need and where do we need it and is it really dysfunctional to get people who are working in certain areas to have to come to a Washington office that is already overburdened and overstressed because it's the Washington office. It's the mother ship office.

Ms. EARP. Madam Chair, would you anticipate that we would fund this study out of the 2008 budget?

Senator MIKULSKI. You mean fund the study? For whatever I'm going to ask you to do, I will make sure you have the money to do it.

Ms. EARP. Thank you.

Senator MIKULSKI. Okay? No, because we are—I will come back to the fact that I think I and others are concerned about the flat funding of the EEOC. We acknowledge that you've had to forage for funds so we're not—anything we're going to ask you to do, we will be a pay as you go subcommittee. Okay? That will be my contract with you. What I need back from you then is us to find out what it is that we need so we are focusing on the—I'm a data driven lady. So on the basis of sound data that has had rigorous intellectual analysis about what is it that we need, even if it takes us a while to get to it but we'll know then what we need. And we can discuss whether that should be done internally or done externally. Okay?

Because I come back to the fact that Maryland—we get casework calls but Maryland constituents are complaining about their complaints not being fully investigated. They feel that they are turned away early—that for a variety of reasons, they don't feel that their complaints are being rigorously investigated.

So what we want to be able to do is look not only at Baltimore but the Capital region, looking at BRAC. As I said, just in Maryland alone, over 40,000 jobs but they really won't be coming until 2009 and 2010. We can just take a look at what will come. We also know that—so that's where, that's kind of where we are. Does that sound like a good way to go?

Ms. EARP. Yes, ma'am.

NATIONAL CALL CENTER

Senator MIKULSKI. Now, this takes me to the call center. You know, I understand why NAPA recommended the call center but we were really concerned because the Federal Government has not had good experiences with national call centers, whether it has been the Equal Employment Opportunity Commission, whether it has been the Immigration Service call center and so on.

And what we were concerned about that with this 2-year contract, that with all the work that needs to be done, that they only agreed to 36 jobs. They got 7 days of training. They had training and experience in civil rights law. Calls never reached to the volume that EEOC predicted. I do acknowledge the facts that you have presented to the subcommittee seem to be different than what we heard even say, 3 months ago, about this call center.

But to us, the call center has never lived up to its promise. We're concerned about the fact that though we say it's 24 hours, it's really an answering machine, I believe, so could you tell me what you want to do with this call center? Because we're not happy with it. And yet, you're going to rely on it to be—play a very important role and then also to tell you trends.

Ms. EARP. I would absolutely stipulate that the call center, the National Contact Center got off to a rocky start. But it is so dramatically improved from its beginnings in March 2005. The call center currently will answer the phone in an average of 1 minute. There are times that the wait is somewhat longer but on average, in 1 minute. It allows us to track data, to do monitoring and the question about training for the customer service representatives—they receive the same training that we give brand new investigators.

Senator MIKULSKI. When did you do that? When was all that? That's not what we were told. We were told 7 days of training. I think you give your investigators more than that.

Ms. EARP. Not initially.

Senator MIKULSKI. You mean your investigators only get 7 days of training in civil rights law?

Ms. EARP. They get 1 week of basic training. Now the thing with investigators is, we have an opportunity over time, to refine that training and they're on the ground so they get to practice their skills. But the customer service representatives are not responding to in-depth inquiries. We think that they have sufficient training to do that first response to the caller coming in. It is—despite the problems in the beginning, it is admittedly substantially improved today.

The issue is, if we don't have a national way to answer phones of some sort, either the one that we're currently working with or one that is inside, we are going to be in a crisis because they answer more than 600,000 calls for us, which frees up—which frees up investigators and attorneys to do the real jobs that they are hired for.

Senator MIKULSKI. You know, you and I could go back and forth on the call center and I don't know where it would take us. Whenever I ask a question, I always wonder, what's the destination? In other words, where am I going? What I—I want to acknowledge the validity of the need for a call center. Okay? So we understand that.

The question is, is this call center really operating the way it should and what all does it need to be run effectively? I'm not disputing what you are saying. We could spend a lot of time going back and forth but I feel that I need an independent analysis of the call center. This is not being provocative with you. But where we then would have some type of document, again, for a way forward.

So you see where I'm heading with the EEOC? We've given the EEOC a forum that they have not had in a number of years. I—we checked our records. We can't find when was the last time this subcommittee asked the EEOC to come and tell us their story and that we could share this.

So this is one of the reasons we wanted to because our accountability and oversight is to see what is our job and then what is your job and again, for the way forward. So where I am, because we could talk about headquarters, et cetera, is to be sure that we have, for the need for the management reforms necessary, we're going to be looking at a way of getting an independent analysis.

HEADQUARTERS RELOCATION PLANS

I'm going to come back to this in 1 minute but please tell me, tell me about this headquarters situation. I read that you are moving. I read that people don't like the fact that you're moving. I read they don't like where you're moving. We wonder about—do you have to move? What is it going to cost to move? Is this something that will take a lot of time, energy and be a distraction from the mission? Do you want to talk to us about the move?

Ms. EARP. Well, change is always difficult and a move like this one—I was actually working for the Commission when the lease

was signed on the building that we're currently in and I remember some employees back then not wanting to move from Columbia Plaza, which is where we were at the time. So the move is difficult.

But in terms of managing our resources, we believe that a move is necessary. The Commission has factored into its budget process for the last 5 years, savings from rent. We moved the Washington field office into the headquarters building 1 year ago and immediately saved \$500,000.

So the plan for some time has been as leases expire, to right size the office. We've lost employees so we don't need as much space. So the short answer is, yes, we think that we need to move, not only because we don't need as much space as we currently occupy but because the current landlord doesn't really want us to stay. He really wants to go back commercial with that building.

The General Services Administration (GSA) has served as our agent in this process. They effectively recommended a spot to us, which our very enterprising employees are speculating about where it is but really, because of the Procurement Integrity Act, we're not even at liberty to say exactly what the location is.

Senator MIKULSKI. You mean I have to go into a classified hearing like I would with the Federal Bureau of Investigation (FBI) to find this out?

Ms. EARP. Well, I—

Senator MIKULSKI. No, I understand. But what you're saying is you have to move?

Ms. EARP. Yes.

Senator MIKULSKI. And that the landlord has told you to move?

Ms. EARP. Essentially, the lease expires next year and he is—

Senator MIKULSKI. The lease expires when?

Ms. EARP. July 2008.

Senator MIKULSKI. So it's July 2008, not July 2007. Okay.

Ms. EARP. No but the process to plan for a move when you have technology, you have case files, you have to notify the public. We thought that we needed to get started. In fact, I feel we're starting a little bit late because we're only giving ourselves just a little more than 1 year when we probably should have had as many as 18 months to prepare.

Senator MIKULSKI. Well—but you are working with GSA?

Ms. EARP. Yes.

Senator MIKULSKI. Because all the street buzz is that you were acting on your own.

Ms. EARP. Not at all.

Senator MIKULSKI. Kind of like drive-by buying.

Ms. EARP. No.

Senator MIKULSKI. So you're not a drive-by buyer for a new Federal—

Ms. EARP. No, ma'am.

Senator MIKULSKI. Well, I think again, we're always concerned about the process and the integrity of the process. As long as EEOC feels that it has to move and it is working with GSA that really is along the path that the subcommittee would want to go.

It's now 11:30. We have many other questions, which we will submit for the record because we are—I'm due on the Senate floor for speaking on drug safety.

But I think this has been a very informative and constructive hearing but where I want to go forward is to really get a picture now of where is the EEOC? And I'm going to ask for—and I want you to know, I'm not now being—I don't want to be viewed as pugnacious, but I am going to ask for a Government Accountability Office (GAO) audit of EEOC because I want to get a sense of what was done.

And what they would recommend needs to be done, what was the financial impact of restructuring and ultimately, what does this mean in terms of enforcing our civil rights? And we'll look to your leadership team too, to discuss what additional studies do we need to do in addition to this, to see where EEOC needs to go.

This is the 21st century and we are righting the wrongs of so many centuries, in terms of the mission of this agency, yet we have new populations and new challenges and new other ways of discrimination. You said you were a career employee for how long?

Ms. EARP. Twenty years.

ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. Twenty years. So you came in 1987. For those in 1977, it was another form of discrimination. For those first employees at the Social Security Administration, they had faced another kind, et cetera, et cetera. And we're just to make sure that the mission stays the same but we have new contemporary challenges. So we want to make sure that you're in the right place, meaning you are located in the right place with the right number of people, with the right resources so that we do the right thing by the people. So that's where we are.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

BACKLOGS

Question. How can EEOC meet its mission when backlogs continue to grow and the organization cuts staff?

Answer. The Commission is keenly aware of the problems associated with a growing inventory of charges. Notwithstanding this challenge, the agency has and will continue to fulfill its mission of eliminating unlawful employment discrimination based on age, disability, race, color, sex, national origin and religion. We wish to put our rising inventory and other challenges in perspective. In 2006, during the last fiscal year, EEOC successfully mediated 8,200 charges—the most in EEOC history; resolved (closed) 74,000 charges filed by members of the public; processed to closure 5 Commissioner or systemic charges; recovered more than \$274 million for victims of discrimination through administrative and legal enforcement; and filed 371 new lawsuits on the merits. Additionally, the agency secured, in thousands of cases, non-monetary relief such as changes in personnel policies, reasonable accommodations and modifications to employment testing. All of this was accomplished with existing staff.

It is true that over the last year, EEOC has eliminated several managerial positions. As senior individuals have left the agency, their specific jobs were not filled but associated savings were allocated to filling front line investigator, trial attorney and mediator vacancies. At present, EEOC hires managers only for those positions that are critical to the success of the agency mission, but we continue to conduct hiring of groups of investigators and trial attorneys. The National Contact Center is also producing efficiencies. Our front-line enforcement staff now can work on cases uninterrupted rather than having to respond to general inquiry calls, which

number nearly 700,000 calls annually. Thus, staff are focusing on the jobs they were hired to perform.

The Committee can be assured that EEOC will continue to manage our resources effectively, increasing supervisory spans of control, eliminating managerial layers and training our staff in new technological developments. We are most fortunate to have a talented, highly-motivated workforce so that we can continue our mission of eliminating unlawful employment discrimination “root and branch”.

Question. How is employee morale at EEOC?

Answer. The Partnership for Public Service reported in their “Best Places to Work in the Federal Government 2007 Rankings” that when compared to 30 large agencies, EEOC ranked 24th. The EEOC ranked 2nd in Employee Skills/Mission match in this report.

Based on the “2006 Federal Human Capital Survey” conducted by the Office of Personnel Management, EEOC rated 21st on Job Satisfaction out of 36 agencies.

Question. How many cases, on average, does a single EEOC investigator handle at the same time?

Answer. Over the last 5½ years, the average workload per investigator based on end of year data has been approximately 40 assigned charges. However, as the chart below indicates, during the period in question, the average workload has increased steadily from a low of 28 charges per investigator assigned in 2002 to a high of 63 at mid-year 2007.

	Pending End Inventory			Investigators Assigned	
	Total	ADR	Enforce-ment	Total	Charges Per
2007 ¹	45,943	6,997	38,946	619	63
2006	39,946	6,485	33,461	653	51
2005	33,562	5,700	27,862	711	39
2004	29,966	5,289	24,677	730	34
2003	29,368	5,229	24,139	785	31
2002	29,041	5,540	23,501	829	28
Average	34,638	5,873	28,764	721	40

¹ Mid-year data.

Question. How many support personnel help a single investigator handle his or her cases?

Answer. The number of support personnel varies from office to office depending on the on-board resources. Most field offices have an Investigator Support Assistant (ISA) on-board. See Attachment I for breakout of ISAs and other support personnel by office. The ISA performs a range of investigator-related duties that includes providing pre-charge counseling to potential charging parties. In some field offices, ISAs perfect charges received in the mail. Field support personnel also handle a large percentage of information calls from the public.

ATTACHMENT I.—FIELD STAFFING—AS OF 5/16/07

District	Office	Office Total	Investiga-tors	Investigator Support Assts	Support Staff
Atlanta	Atlanta	75	35	4	10
	Savannah	9	5	1	2
Atlanta Total .....	.....	84	40	5	12
Birmingham	Birmingham	67	25	4	9
	Jackson	26	14	2	6
	Mobile	2	1	0	.....
Birmingham Total .....	.....	95	40	6	15
Charlotte	Charlotte	47	13	1	6

ATTACHMENT I.—FIELD STAFFING—AS OF 5/16/07—Continued

District	Office	Office Total	Investiga- tors	Investigator Support Assts	Support Staff
	Greensboro	8	5	0	1
	Greenville	11	6	0	2
	Norfolk	15	5	1	3
	Raleigh	18	7	0	4
	Richmond	17	6	0	2
	Charlotte Total	116	42	2	18
Chicago	Chicago	85	36	4	11
	Milwaukee	35	11	1	5
	Minneapolis	17	6	1	4
	Chicago Total	137	53	6	20
Dallas	Dallas	64	21	2	10
	El Paso	16	10	0	2
	San Antonio	50	20	1	5
	Dallas Total	130	51	3	17
Houston	Houston	67	27	0	9
	New Orleans	36	11	2	6
	Houston Total	103	38	2	15
Indianapolis	Cincinnati	14	7	.....	2
	Detroit	40	16	1	5
	Indianapolis	73	30	2	11
	Louisville	19	8	1	4
	Indianapolis Total	146	61	4	22
Los Angeles	Fresno	3	1	0	.....
	Honolulu	7	3	0	1
	Las Vegas	6	2	0	1
	Los Angeles	56	15	1	8
	San Diego	12	5	0	2
	Los Angeles Total	84	26	1	12
Memphis	Little Rock	24	12	0	3
	Memphis	46	13	0	8
	Nashville	21	11	1	3
	Memphis Total	91	36	1	14
Miami	Miami	72	32	2	7
	San Juan	9	4	1	2
	Tampa	28	16	1	5
	Miami Total	109	52	4	14
New York	Boston	20	7	1	4
	Buffalo	10	7	0	2
	New York	72	20	1	10
	Newark	14	6	1	4
	New York Total	116	40	3	20
Philadelphia	Baltimore	44	13	2	7

ATTACHMENT I.—FIELD STAFFING—AS OF 5/16/07—Continued

District	Office	Office Total	Investiga- tors	Investigator Support Assts	Support Staff
Philadelphia	Cleveland	48	14	3	9
	Philadelphia	64	21	0	8
	Pittsburgh	23	12	2	4
	Philadelphia Total	179	60	7	28
Phoenix	Albuquerque	20	8	2	4
	Denver	45	14	1	7
	Phoenix	58	21	1	9
	Phoenix Total	123	43	4	20
San Francisco	Oakland	3	2	1	1
	San Francisco	53	10	1	6
	San Jose	10	4	1	2
	Seattle	40	12	2	6
	San Francisco Total	106	28	5	15
St. Louis	Kansas City	19	10	1	2
	Oklahoma City	20	11	1	3
	St. Louis	40	15	1	6
	St. Louis Total	79	36	3	11
Washington	Washington	32	4	4	8
Field Total		1,730	650	60	201

Question. How many front-line staff do you have in each area office to take initial complaints?

Answer. The chart in Attachment I provides an office-by-office breakout of the numbers of investigators, ISAs and support staff, all of whom may perform charge intake duties. The chart also reflects the overall total staff (both enforcement and legal) for each office.

Question. Can you provide the Committee with a strategic plan that includes benchmarks for reducing EEOC's backlog and improving morale? (OCH)

Answer. A copy of our current strategic plan (2007–2012) is attached. Many of the measures contained in that plan are to be determined. A revised strategic plan with specific performance measures is currently under development and will be voted on by the Commission when completed. We will of course share our plan with you when it is completed and approved.

With regard to employee morale, as part of our current strategic plan we are improving our strategic management of human capital. The EEOC has completed key steps toward developing and implementing a human capital initiative. Planning for human capital needs is more important than ever. Our human capital strategic plan guides our agency's actions, including:

- Revising our performance management system for executives and managers to link their performance with the agency's mission and goals.
- Developing and sustaining leadership and supporting succession planning through the agency's Management Development Institute, an umbrella program addressing managerial needs of supervisors and executives.
- Participating in the Office of Personnel Management's human capital surveys and implementing regular internal surveys to identify employee satisfaction with human capital management and developing action plans based on an analysis of feedback.
- Identifying and quantifying mission critical competencies for key positions, including investigators, attorneys and mediators, developing multi-year training plans to address any organizational gaps.
- Closing gaps through individual development plans, mentoring, training, rotational assignments and other staff development initiatives.
- Aggressively recruiting, developing and retaining high-quality talent.

The EEOC's program to reinvigorate our systemic discrimination program highlights the need to fine tune our human capital approaches. To succeed, the agency must enhance incentives for identifying, investigating, and litigating systemic cases, provide additional opportunities for training and the development of expertise related to systemic discrimination, and improve technology skills. Our systemic initiative will facilitate development of more refined approaches to enforcing the law. Our goal is to ensure that employees have the right skills, talents, and abilities to succeed in implementing this program.

EEOC OVERSIGHT OF EEO OFFICES

Question. How does EEOC evaluate each equal employment office?

Answer. The standards by which EEOC evaluates the sufficiency of federal agency Title VII and Rehabilitation Act programs are set forth in EEO Management Directive 715, which became effective in 2003. MD-715 divides the essential elements of model agency EEO programs into six broad categories: (1) demonstrated commitment from agency leadership; (2) integration of EEO into the agency's strategic mission; (3) management and program accountability; (4) proactive prevention of unlawful discrimination; (5) efficiency; and (6) responsiveness and legal compliance.

Pursuant to MD-715, agencies are required to conduct periodic self-assessments of their Title VII and Rehabilitation Act programs against the six model elements enumerated above. Agencies are required to report on a yearly basis to EEOC their progress toward establishing and maintaining a model workplace. That report includes the identification of any program deficiencies and the identification of any barriers to equal employment an agency has discovered along with plans to eliminate any such barriers. Agencies also are required to submit to EEOC a series of data tables showing snapshots of their agency workforce by race, national origin, sex and targeted disability. EEOC evaluates each agency's submission and provides written feedback and analysis on each agency's progress toward establishing and maintaining a model EEO workplace and identifies areas in which each agency's program needs improvement.

In addition to the written evaluations based upon agencies' MD-715 reports, EEOC conducts a limited number of in-depth, program evaluations each year.

Question. How often are evaluations conducted?

Answer. Evaluations based upon agencies' MD-715 reports are conducted each year. EEOC also conducts more in-depth evaluations of agency EEO programs. EEOC conducted 3 such evaluations in fiscal year 2004; 5 in fiscal year 2005; and 4 in fiscal year 2006. We plan to conduct 3 to 4 evaluations in fiscal year 2007.

Question. What can a federal employee do if he or she feels that the agency EEO office is not investigating the case properly?

Answer. There are several options available to a federal employee who feels that his or her complaint is not being properly processed. These options include raising these concerns with: (1) the agency officials responsible for conducting the investigation; (2) an EEOC Administrative Judge; and (3) the EEOC on appeal.

Complaints concerning the processing of complaints, including how complaints are investigated, are addressed in the U.S. Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 110. Specifically, MD-110 Chapter 5 Section IV.D entitled "Allegations of Dissatisfaction Regarding the Processing of Pending Complaints," provides that if a complainant is dissatisfied with the processing of his/her pending complaint, whether or not it alleges prohibited discrimination as a basis for dissatisfaction, s/he should be referred to the agency official responsible for the quality of complaints processing.

Agency officials should earnestly attempt to resolve dissatisfaction with the complaints process as early and expeditiously as possible. Further, the agency official responsible for the quality of complaints processing must add a record of the complainant's concerns and any actions the agency took to resolve the concerns to the complaint file maintained on the underlying complaint. If no action was taken, the file must contain an explanation of the agency's reason(s) for not taking any action.

In cases where the complainant's concerns have not been resolved informally with the agency, the complainant may present those concerns to the EEOC at either of the following stages of processing: (a) Where the complainant has requested a hearing, to the EEOC Administrative Judge when the complaint is under the jurisdiction of the Administrative Judge; or (b) Where the complainant has not requested a hearing, to the EEOC Office of Federal Operations (OFO) on appeal.

Where the Administrative Judge or OFO finds that an agency has improperly processed the original complaint and that such improper processing has had a material effect on the processing of the original complaint, the Administrative Judge has

the authority to supplement the record at the hearing stage, and/or impose sanctions on the agency as s/he deems appropriate.

In some instances, if there appears to a particularly egregious or systemic issue with a particular agency, which may have been identified by multiple complaints received through complainant correspondence, and/or through our independent review of their policies, practices, and procedures as revealed by their annual 462 and MD-715 reports, the EEOC may select the agency for a Program Evaluation. This evaluation involves an intensive review of the agency's EEO practices after which we prepare a report documenting our findings on the factors that we determine are having a significant impact on the agency's program efficiency as well as EEOC's recommendations on how the agency should address these findings. Similarly, on occasion, if a complaint presents a conflict of interest, or if high-level agency officials are involved, the EEOC's Special Services Staff in its Office of Federal Operations may undertake an investigation of a complaint if requested by the agency where the discrimination allegedly occurred.

Finally, federal employees or applicants who are not satisfied with the outcome of the administrative process may elect to file a civil action in an appropriate United States District Court.

BRAC IN MARYLAND

Question. Maryland over the next five years will be undergoing tremendous growth due to BRAC. Did EEOC consider this when they decided to downgrade the Baltimore office?

Answer. EEOC was aware of the BRAC recommendations at the time that the repositioning plan was developed. EEOC regularly monitors its workload and staffing data, both at the national and at the local office levels, to identify any shifts or trends in charge receipts and resolutions from projected expectations. This monitoring allows us to develop needed adjustments to workload through the inter-district transfer of charges in the short term and, subject to budgetary constraints, by adjusting office staffing levels for the long-term. With respect to the Baltimore office, we have been keeping their front-line staff at close to an optimal level, which should allow them to take on additional work resulting from base build-ups in Maryland. In January 2006, when we implemented field repositioning, there were 11 investigators in the Baltimore District Office. Today, we have 12 investigators in the Baltimore Field Office. The redesignation of the Baltimore office as a result of repositioning did not result in fewer frontline positions.

Question. How will EEOC handle this influx of 55,000 new employees to Maryland?

Answer. See response to question 1 above.

Question. What is EEOC doing right now to plan for this increased caseload?

Answer. See response to question 1 above.

QUESTIONS SUBMITTED BY SENATOR TOM HARKIN

Question. What percentage of the EEOC cases that have been resolved or closed in the last three years originated with the state and local agencies?

Answer. Over the last three years, the state and local agencies (FEPAs) have resolved approximately 40 percent of the total combined resolutions of dual-filed charges with EEOC and the FEPAs. Specifically, the FEPA percentage of overall dual-filed charge resolutions during this period was: 40 percent in fiscal year 2004, 41.3 percent in fiscal year 2005 and 40.5 percent in fiscal year 2006.

Question. What percentage of callers to the national call center's 800 number are referred to state and local offices?

Answer. Slightly less than 2 percent of NCC calls are referred to FEPAs. For example, of the 222,350 calls handled by customer service representatives during the 7-month period between October 2006 to April 2007, 4,162 (1.9 percent) were referred to FEPAs.

Question. Please provide a justification for the agency proposal to place over 60 percent of the cuts proposed by the Administration on the state and local agencies that have the largest share of the caseload.

Answer. For fiscal year 2008, the Administration has proposed a \$997,000 reduction from the fiscal year 2007 enacted level. From the enacted 2007 level, the State and local agencies were apportioned \$30 million in 2007 and will receive \$28 million (a budget reduction of less than 7 percent) under the Administration budget before Congress. The budget projections show the EEOC inventory to rise to 67,000 charges, while the FEPA charge inventory has been dropping and will flatten out at around 50,000 charges. The budget proposal seeks to provide more funds to

EEOC to avoid a worsening EEOC inventory rise. The cut in FEPA funds should not change the projected FEPA inventory.

QUESTIONS SUBMITTED BY SENATOR LAMAR ALEXANDER

Question. How many lawsuits and complaints against employers over English language workplace policies has the U.S. Equal Employment Opportunity Commission (EEOC) filed so far this year? How many lawsuits and complaints did the Commission file in 2006, 2005, 2004, 2003, 2002, and 2001?

Answer.

Charges

In the period of fiscal year 2001 to fiscal year 2006, EEOC has received charges alleging discrimination on the issue of English-only policies as follows:

CHARGE RECEIPTS WITH ENGLISH-ONLY ISSUE

	Fiscal Year—					
	2001	2002	2003	2004	2005	2006
Receipts	154	237	173	184	141	125

On average, this represents an average of 169 charge receipts per year, which equals less than 0.2 percent of receipts (using an average of 75,000), a small fraction of our total receipts. Additionally, we resolved the following number of charges during this same timeframe:

CHARGE RESOLUTIONS WITH ENGLISH-ONLY ISSUE

	Fiscal Year—					
	2001	2002	2003	2004	2005	2006
Resolutions	182	218	190	165	189	111

Of these resolutions, EEOC found reasonable cause to believe discrimination occurred in approximately 53 charges, on average, per fiscal year. The specific numbers, by fiscal year, are as follows:

CAUSE RESOLUTIONS WITH ENGLISH-ONLY ISSUE

	Fiscal Year—					
	2001	2002	2003	2004	2005	2006
Cause Resolutions	59	62	39	47	83	25

Lawsuits

EEOC has filed one case this fiscal year involving English-only policies. In prior fiscal years, EEOC has filed the following cases involving this issue:

LITIGATION FILINGS WITH ENGLISH-ONLY ISSUE

	Fiscal Year—					
	2001	2002	2003	2004	2005	2006
Filings	3	2	2	2	4	2

Question. How much money has the EEOC spent to prosecute lawsuits and file complaints against employers over English language workplace policies so far this year (including staff costs, court fees, etc.)? How much did the Commission spend on lawsuits and complaints in such cases in 2006, 2005, 2004, 2003, 2002, and 2001?

Answer.

Charges

Of the 169 charge receipts that EEOC receives on average each year, the cost of processing these charges is difficult to quantify. However, basing our calculations

on this six-year average for receipts, these charges represent the annual workload of approximately 1½ investigators. Computing out the annual salary, benefits and overhead for an investigator, and calculating their time spent on English-only charges, the cost would be approximately \$250,000.

Lawsuits

The table below provides cost to EEOC for litigating English-only cases.

LITIGATION COST FOR ENGLISH-ONLY ISSUE

	Fiscal Year—						
	2001	2002	2003	2004	2005	2006	2007
Staffing Cost	\$6,515.00	\$35,394.00	\$38,038.00	\$7,103.00	\$130,804.00	\$105,786.00	\$54,793.00
Litigation Cost ...	\$123,026.78	\$71,432.00	\$24,435.00	\$87,062.00	\$14,098.63	\$399.00	.....
Total	\$129,542.78	\$106,826.00	\$62,473.39	\$94,165.69	\$144,902.63	\$106,185.00	\$54,793.00

Question. How many small-to-medium sized businesses (under 100 employees) has the EEOC filed complaints or lawsuits against over English language workplace policies this year? How many in 2006, 2005, 2004, 2003, 2002, and 2001? How many big businesses (100 or more)? How many of each category in Tennessee?

Answer.

Charges

Of the cause findings issued each year during the past six years, the number of those that were issued by the size of the employer is as follows:

CAUSE RESOLUTIONS WITH ENGLISH-ONLY ISSUE BY EMPLOYER SIZE

	Fiscal Year—					
	2001	2002	2003	2004	2005	2006
Total Cause Resolutions	59	62	39	47	83	25
15–100 Employees	16	14	14	21	19	11
101–500 Employees	20	27	13	8	20	5
501+ Employees	23	19	11	14	39	6
No. of Employees Unknown .....	.....	2	1	4	5	3

During this six-year period, there were only three cause findings issued to employers in the State of Tennessee. All of these findings were issued in a single fiscal year, fiscal year 2001, and were evenly split between the three size categories above.

Lawsuits

EEOC has not filed any cases this fiscal year against small employers involving this issue. For prior fiscal years, we have filed the following:

LITIGATION FILINGS WITH ENGLISH-ONLY ISSUE AGAINST EMPLOYERS WITH 100 OR FEWER EMPLOYEES

	Fiscal Year—					
	2001	2002	2003	2004	2005	2006
Filings		2	1	.....	2	1

EEOC has filed one case this year against a large employer. In the past, we have filed the following:

LITIGATION FILINGS WITH ENGLISH-ONLY ISSUE AGAINST EMPLOYERS WITH MORE THAN 100 EMPLOYEES

	Fiscal Year—					
	2001	2002	2003	2004	2005	2006
Filings	3	.....	1	2	2	1

EEOC has filed no cases against employers in Tennessee involving this issue for the period October 1, 2000 to the present.

Question. How many lawsuits and complaints arising over English language workplace policies has the EEOC settled, won, and lost this year? How many in 2006, 2005, 2004, 2003, 2002, and 2001?

Answer.

Charges

The number of English-only policy resolutions involving settlements include successful conciliations—a component of the cause finding—as well as settlements. The annual tallies follow:

SETTLEMENTS WITH ENGLISH-ONLY ISSUE

	Fiscal Year—					
	2001	2002	2003	2004	2005	2006
Successful Conciliations	23	22	7	16	25	6
Settlements	13	28	26	20	14	18
Total	36	50	33	36	39	24

Lawsuits

EEOC has resolved three cases this fiscal year; all were settled by consent decree. In prior years, we resolved the following:

LITIGATION RESOLUTIONS WITH ENGLISH-ONLY ISSUE

	Fiscal Year—					
	2001	2002	2003	2004	2005	2006
Consent Decree	4	1	.....	1	1	3
Settlement Agreement .....	.....	1	1	.....	.....	.....
Favorable Court Order .....	.....	.....	.....	.....	1	.....
Total	4	2	1	1	2	3

QUESTIONS SUBMITTED BY SENATOR TED KENNEDY

Question. I understand that EEOC has undertaken a commitment to revitalize systemic litigation. I applaud this effort. However, in light of your significant and growing case backlog and the significant staff reductions the agency has undergone in recent years, do you believe that the Commission has the resources to implement this renewed commitment? What other areas will the Commission have to compromise in this effort?

Answer. We believe that in order to combat systemic discrimination effectively, the Commission must promote a culture that encourages staff to look for, recognize, and investigate systemic discrimination. We already have a core group of investigators, attorneys and other enforcement staff who have a proven record in this area including many significant settlements and conciliations over the years, and in some instances, major systemic litigation. We are enhancing this core group by adding positions for lead systemic investigators, systemic paralegal specialists, and labor economists to support this effort. In addition, we are devoting resources to systemic training programs to develop and enhance the expertise of existing investigators, attorneys and support staff.

We are able to leverage our existing resources by encouraging districts to partner with one another and form a national systemic practice along the lines of a national law firm model. This strategy allows the Commission to address systemic discrimination effectively nationwide while at the same time sharing and building expertise in all of our offices.

We budgeted \$213,000 in fiscal year 2006 non-staff funds for information technology support for this activity. In fiscal year 2007, we have budgeted \$150,000 for non-staff costs in the field for this activity. The funds were realized when planned new hires did not enter on duty within the new hire timeline. These funds will be used to hire expert and support services for manipulating systemic data, train staff

in systemic analysis, and pay for travel expenses for staff to meet on systemic cases that involve multiple offices.

Specifically, in our budget request, we project a slight decrease in lawsuit filings compared to previous years, due to a readjustment of our docket to include more large class cases. In fiscal year 2006, we filed 371 suits, and in fiscal year 2008 we estimate filing 340 suits. We anticipate a shift in the size and complexity of cases in our docket as the Commission's new Systemic Program produces some larger cases for enforcement litigation by fiscal year 2008. Our campaign to reinvigorate the systemic program may redirect some resources from smaller, individual cases. The Commission understands this potential trade-off and believes that it is worthwhile. When done correctly, systemic cases can transform whole industries or geographic areas—not just the named defendants. They are a way of leveraging the agency's limited resources to have the widest possible reach. Thus, we believe the Commission has the resources to implement its renewed commitment to systemic litigation, without compromising its overall enforcement program.

Question. The National Employment Lawyers Association recently released a report containing disturbing findings from a survey that the Association conducted about EEOC operations. I was particularly troubled by the report's discussion of the problems that members of the public have experienced with intake investigations. Potential claimants are receiving erroneous advice—e.g., that they cannot file a claim if they still have their job, or that they cannot name more than one grounds of discrimination in their charge—and this bad advice has compromised their rights. In addition, the agency's recent reorganization significantly reduced the number of frontline staff, particularly intake investigators. You testified at the hearing that EEOC's frontline investigators receive only one week of specialized training. I know that the agency's employees are dedicated and hardworking, but it appears that they do not have the capacity or the training to perform their jobs effectively. What steps can the agency take to increase the quality of frontline services it provides? Does the agency need to implement additional training programs? Do you need to hire more frontline investigative staff? How can the quality of services be improved without additional resources above and beyond the President's budget request?

Answer. First, I would like to note that when I became Chair in September 2006, I met with NELA representatives almost immediately, with the goal of beginning a close partnership with them in my new role. Since last September, I have maintained an on-going dialogue with NELA on many matters and spent two days with NELA representatives at the ABA off-the-record meeting in January of this year. As NELA itself states in the introduction to its report:

"The Chair and the Commissioners have taken affirmative steps in seeking NELA's input and feedback regarding EEOC operations. Indeed, open dialogue with and encouragement from Chair Earp, Vice Chair Silverman, and Commissioners Griffin and Ishimaru were a catalyst for NELA conducting the survey which is the subject of this report."

Second, I would like to reassure the Committee that the instances recounted in NELA's report are not the usual conduct of business at EEOC. The survey was sent to 2,500 NELA members with the request that they report problems with EEOC rejecting charges. Of those 2,500, 343, or 13.7 percent responded. A total of 77, or 3 percent of the members surveyed reported drafting a "discrimination charge . . . that was not accepted for filing . . ." NELA's survey covered approximately two and a quarter calendar years; although our numbers follow fiscal years, instead of calendar years, they provide context to consider the numbers of complaints that NELA received. During fiscal year 2004-fiscal year 2006, EEOC received more than a half million inquiries (558,177) and took in over a quarter of a million charges (230,628). In light of this enormous workload, the instances reported are indeed a small number.

I want to emphasize that I take NELA's concerns very seriously. As a result of discussions with them on intake issues, long before we received the survey results, we began setting up an e-mail address to enable NELA members to inform us in real time of concerns they have with any particular intake session. We notified NELA informally of this e-mail address in February and in April formally notified them in a letter which they can distribute to their members. We intend to use the information provided by NELA members to remedy any situation where an individual who wishes to file a charge has encountered obstacles, as well as to train and counsel staff on correct intake procedures, when necessary. As we receive messages in this mailbox, we will be working with the appropriate office to resolve the situation promptly, ensure that charging party rights are preserved and that our staff deals properly with anyone who initiates intake activity.

We have also found that face-to-face meetings with stakeholders such as NELA are extremely helpful to both sides. For example, when NELA representatives in Atlanta informed us in 2005 of problems they encountered with filing charges in the Atlanta District Office, our Atlanta District Director met with them personally to resolve those issues. She then set up quarterly meetings with regional NELA representatives, which are on-going to this day. We understand that these meetings are well received on both sides and we have encouraged our other district directors across the country to meet regularly with their regional NELA representatives.

Of course, there are reasonable differences that our staff have had from time to time with charges drafted by private attorneys and some charges are reworked. For example, we routinely request that charges not include the specific disability on the face of the charge. The Americans with Disabilities Act limits the extent to which employers can disclose the medical information of employees. Charges are served on employers and may go through many hands and be seen by many people at the company. We would not want our charge process to produce results inconsistent with the statute. Another example is the honest mistake that some private attorneys make by naming witnesses to the alleged discrimination on the face of the charge. If such charges were taken “as-is” and served on the employer, those witnesses could easily become targets for retaliation. Consequently, our staff request that the names of witnesses be removed from the charge and provided separately to investigators.

Finally, you should know that EEOC has been working on maintaining the overall high quality of our intake process for several years, in part through Technical Assistance reviews that our headquarters staff conduct of our field offices. In 2005, we set up an Intake Workgroup, composed of deputy district directors and district enforcement managers, which drafted a proposed uniform intake questionnaire to assist the district offices with their intake procedures. We have also been working on redirecting staff resources to the intake function to allow better development of the allegations included in charges as well as the evidence necessary to support those allegations. We anticipate additional training for our intake staff sometime in the near future. This would augment the initial one-week classroom training provided to new investigators that is supplemented with local training conducted in each office, on-the-job training, and later advanced classroom training.

We have already given NELA's report to our Technical Assistance teams for their review and analysis of the specific problems noted in the survey. We will use their recommendations to improve our processes as necessary and reduce any such occurrences in the future.

Question. I am familiar with the findings of the Inspector General's report on the ineffectiveness of the Commission's call center pilot project. The center has been plagued with operational problems and is not serving the public effectively. Even if improvements have been made, it is clearly time to reexamine this problematic experiment. You have mentioned that there would be increased expense if this function were brought in-house, but your estimate of the cost seems extremely high. Can you provide for me the basis of your calculations about the cost of bringing the call center in-house? Wouldn't the Commission's client populations be better served by working with experienced EEOC employees when they contact the agency?

Answer. In September 2006, EEOC asked the National Academy of Public Administration (NAPA) to conduct an assessment of the requirements to establish an in-house contact center and to provide an independent estimate of the costs. NAPA issued a report in January 2007 that estimated that it would cost an initial \$2.3 million to move the National Contact Center (NCC) in-house and annual ongoing costs of \$5.5 million; therefore, the first year of operating an in-house contact center would be \$7.8 million. By comparison, annual on-going costs for the contractor-run center costs about \$2.5 million. In developing their cost estimates, NAPA used comparable staffing, processes, technology, and equipment as that used by the NCC. The NAPA estimates took into account that the software application, knowledge base, and training materials used by the NCC are the property of EEOC under the terms of the contract and would not have to be purchased. According to the NAPA report, which is available at, “the staffing estimates are based upon a representative month and the metrics currently in place to meet service requirements including speed of answer and qualitative measures.” The NAPA estimates also presumed the rental of a stand-alone facility located in a labor market designated as “rest of USA.”

It is important to note that the customer service representatives (CSRs) who answer the phones for EEOC are dedicated to the EEOC contract, are well-trained to represent EEOC and allow us to present a consistent face to the public for 12 hours each work day. This is an important service to our client population—to be accessible, at convenient hours, and providing accurate information or referrals. A report

issued by the Claes Fornell International (CFI) Group in May 2006 indicated the overall Customer Satisfaction Score for the EEOC contact center was 77, which is six points higher than the average for Federal Government contact centers. This report is accessible on the EEOC external website at the following URL: http://www.eeoc.gov/abouteeoc/oig/reports/ncc/cs_survey.html. In addition, we receive very few complaints from our field offices regarding the services provided by the contact center. The volume of calls handled by the CSRs, more than 38,000 a month (with an average wait time of 30 seconds), could not be handled using existing experienced EEOC employees and technology.

A March 2003 survey indicated that 61 percent of the calls to our public numbers in the field were for reasons other than potential charge filing and could easily be answered by clerical level employees. These figures still hold true today in that more than 60 percent of the calls coming to the NCC are for reasons other than filing a charge. Callers who have questions about filing a charge are pre-screened for coverage and mailed an intake questionnaire. Contact center employees have been trained to handle the variety of calls coming in to EEOC and our EEOC monitors believe they are doing a very good job of collecting data, answering questions, and as several field supervisors noted recently, "providing a portal to EEOC." The training for customer service representatives does not end after the initial two weeks (including six days devoted to EEOC content) and also includes on-going monitoring and refresher training at least four times each month. The CSR's job is to be quickly accessible, to quickly determine the reason for the call, and to provide the appropriate level of assistance. Do they use scripts to do this? Yes, they do, but they are trained to ask appropriate questions to determine which scripts to use and when. These same scripts have been shared with all field offices at the request of field supervisors. CSRs hold a dialogue with the caller and because they are constantly monitored, we are able to follow up on any incomplete or incorrect information.

In order to set up an EEOC-operated contact center, we will have to make a significant investment in technology and additional resources to provide the same level of service the public is receiving from the contract call center. When we used only EEOC employees answering the phone, we found we could not adequately do the job without using some 21st century technology and strategies. Our volume of calls, currently over 60,000 per month to the NCC alone, is clear evidence that we need to take advantage of industry best practices to meet our customer service needs. It is better for our customers that we are making the best use of our limited budgetary resources to operate a contract call center, because in this way:

- the caller can be certain of reaching a CSR 12 hours-a-day and only having to wait less than a minute on average to do so;
- the caller can be assured of getting consistent information, consistent treatment, and consistent service, regardless of whether he or she resides in the country, or what language he or she speaks; and
- our investigators are able to devote their time to deal with potential charges and investigations rather than handling phone duty of general inquiries, which currently number 60,000 per month.

CONCLUSION OF HEARINGS

Senator MIKULSKI. We'll look forward to further conversations with you as we move ahead. This subcommittee will stand in recess, subject to the call of the Chair.

[Whereupon, at 11:36 a.m., Thursday, May 3, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]